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Towards trauma-informed legal practice: a review

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Vicarious or secondary trauma experience has always been part of legal practice although many do not acknowledge the risk it can have on the mental health, well-being and performance of legal professionals. The listening to, observing and then detailing of traumatic events for the purposes of legal process in some cases may harm lawyers who need to work closely with clients, victims and witnesses. This article reviews the research on trauma in many areas of professional human services that could inform and improve our understanding of legal practice. It examines the discursive history of trauma and recent studies on lawyer well-being, before discussing the controversies about recognising vicarious trauma and the stigma against mental health concerns in the legal profession. The article concludes by reviewing options to assist law firms in considering trauma-informed policy, practices and supervision strategies and to help individual lawyers recognise the value of self-care.

Key words: burnout; indirect trauma; post-traumatic stress disorder; secondary trauma; self-care; stigma; supervision; trauma-informed; vicarious trauma; well-being.

Introduction

Many lawyers are exposed to trauma in their day-to-day work, and there is little recognition in the legal profession of the effect that exposure may have on their well-being and effectiveness. Lawyers may need to engage with clients and others who have been directly injured and traumatised, listen to graphic descriptions of violence, engage at length with traumatised people and analyse details of abuse and injuries for legal purposes. Every lawyer who works with traumatised clients is affected at some level in different ways, although often it may not be damaging or career limiting. In other cases, exposure to clients' trauma can lead to significant harm and life-changing effects.

A growing body of research confirms that professionals exposed to descriptions, images or recordings of their client's trauma can develop harmful secondary or indirect effects, in some cases producing symptoms of post-traumatic stress disorder (PTSD). Research has identified ways for individuals, systems and organisations to become 'trauma-informed' so they can more safely and effectively work with cases involving trauma. A trauma-informed approach may provide lawyers with better opportunities to 'survive and thrive' by overcoming stigma, maximising protective strategies, normalising the effects of indirect exposure, ensuring the workplace is informed and has supportive systems and developing individual resilience to clients' trauma as part of regular, day-to-day legal practice (Evans & Coccoma, 2014).

This article draws on studies from a range of human services including legal

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practice to help identify risks of indirect trauma, including its possible causes and effects, and describe protective measures and effective responses. A conventional approach to trauma in the legal profession is to deny the problem and assert that lawyers should get used to it, be resilient, toughen up or 'grow a thick skin'. Law schools typically don't inform students of the risks of exposure to trauma in legal practice; many law firms under neoliberal management seem to not care about employees' exposure to clients' trauma since their measure of performance is often focused on billing targets; and most law societies and associations have not yet incorporated trauma-informed training into continuing professional development programmes. Consequently, lawyers have little opportunity for education on the possible effects of trauma or professional training on learning how to manage their exposure to clients' trauma in daily practice.

We accept that stress is unavoidable in many areas of legal practice, and in most cases it is adaptive. Stress or even distress in professional work is not always traumatic or harmful. We do not seek to introduce new pathologies or mental health diagnoses in legal practice; however, we understand types of mental illness as constructions not 'facts', and they vary with historical and social shifts (Freshwater, 2006). The concern arises because some lawyers may be impacted by exposure to work-related trauma that is not adequately recognised. In particular, lawyers who work in criminal law, coronial law, family law, domestic violence, child abuse, immigration and refugee law and personal injury cases may be at risk from indirect trauma exposure since they often need to work with traumatised clients and to particularise violent events (Albert, 2013). They may need to discuss in detail the experiences and injuries of clients, victims or witnesses, including actions, events and consequences that many people would find gruesome, traumatic or upsetting. Lawyers often need to draft affidavits, analyse reports and closely examine forensic evidence including photos, recordings and physical items. In addition, they may need to work closely over time with traumatised clients or witnesses who are displaying PTSD symptoms from their direct trauma.

Trauma is defined by the American Psychological Association as an 'emotional response to a terrible event like an accident, rape or natural disaster', often followed immediately by shock and denial, with unpredictable events in the long term, including emotions, flashbacks, strained relationships and even physical symptoms such as headaches and nausea (APA, 2019a). In the American *Diagnostic and Statistical Manual of Mental Disorders–Fifth Edition* (DSM–5) trauma is described briefly as 'Exposure to actual or threatened death, serious injury, or sexual violence' (APA, 2013) and in the European International Classification of Diseases–11th Revision (ICD–11) as 'an extremely threatening or horrific event or series of events' (WHO, 2019). A useful definition of trauma is provided in the United States by the Center for Treatment of Anxiety and Mood Disorders: 'a psychological, emotional response to an event or an experience that is deeply distressing or disturbing' (CTAMD, 2019). Randall and Haskell (2013) distinguish trauma from stress by saying a traumatic event is one which is 'so overwhelming that it diminishes a person's capacities to cope, as it elicits intense feelings of fear, terror, helplessness, hopelessness, and despair often subjectively experienced as a threat to the person's survival' (p. 507). They also say a traumatic event need not be violent, although it will always entail a violation of the person's sense of self and security (citing Kammerer & Mazelis, 2006).

History

The science on trauma is a contested domain, and controversies over definitions of conditions, symptoms, causes and treatments

continue in both professional and research literature. It helps therefore to understand how we have arrived at our current, although diverse, state of knowledge and how it is continuing to develop. In the nineteenth and early twentieth centuries doctors identified symptoms of trauma in soldiers exposed to battle and named the conditions variously as 'nervous shock', 'psychic shock', 'shell shock' and 'war neurosis' (Young, 1995; Herman, 1992). In 1942 *The Lancet* reported doctors 'successfully' treating patients in a London emergency hospital by telling them to stop exaggerating their fears that were shared by everyone, and to return to their normal duties (Wilson, 1942, p. 284). In 1965 the World Health Organisation updated the ICD–8 to include a stress-related condition: 'transient situational disturbance', which became 'acute stress reaction' or 'adjustment reaction' in the ICD–9 in 1975. After the Vietnam war ended in 1975, American therapists, assisting thousands of returned servicemen showing psychological injury from their war experiences, lobbied for a variation of the DSM, and consequently in 1980, the DSM–III included PTSD as a specific disorder. However, some therapists with ongoing and large case-loads of patients suffering PTSD began to show secondary signs of disturbed cognitive schemas and memory functions (Paivio, 1986).

The first theorists to clearly articulate indirect trauma in the human services were McCann and Pearlman in 1990 (McCann & Pearlman, 1990). Building on the work of Fromm (1955) and Rogers (1959), they found that therapists working with traumatised clients over time may experience PTSD symptoms, including intrusive thoughts or images and painful emotional reactions associated with their patients' memories. However, just as PTSD was viewed as a normal reaction to an abnormal event, they urged that indirect traumatisation should not be pathologised, since it was a normal reaction to stressful work with victims. By 1995, two related conditions had emerged in the discourse, 'secondary trauma stress' and 'compassion fatigue', although to date neither have been accepted as distinct diagnoses by the DSM (Figley, 1995, 2015). Two more studies in the same year were influential in confirming the American discourse on indirect trauma: one that analysed the experience of sexual assault counsellors (Schauben & Frazier, 1995) and another on the experience of trauma therapists (Pearlman & Mac Ian, 1995).

Following the 2001 attack on the World Trade Center in New York, many counsellors working with survivors began to display symptoms of PTSD, apparently through 'emotional contagion' from their patients. However, similar to the Vietnam veterans' counsellors, they did not fit the restricted diagnosis of PTSD because they had not directly experienced the traumatic event that had injured their clients (Seeley, 2008). Eventually in 2013, DSM–5 introduced an additional category of causation of PTSD by 'repeated or extreme exposure to details of the event(s), i.e. vicarious trauma' and 'usually in the course of professional duties' (Jones & Cureton, 2017).

'Vicarious trauma' has been distinguished by some researchers as the most serious condition from exposure to trauma as it involves a cognitive or schematic shift, sometimes leading to a change in world view (Newell & Macneil, 2010, p. 57; Hernandez, Engstrom, & Gangsei, 2007). However, the American discourse often refers to 'secondary trauma stress' as the range of symptoms associated with PTSD, including emotional numbing, avoidance, arousal and intrusive thoughts (Molnar et al., 2017, p. 130). These conditions are distinguished from countertransference, which refers to the feelings a therapist may develop towards their patient, although they can co-occur with it and reinforce one another (McCann & Pearlman, 1990). While the DSM–5 accepts that PTSD may develop from vicarious/secondary/indirect exposure to trauma, the discourse is hampered by inconsistency in definitions and overlap in symptoms. Neither vicarious trauma nor secondary

trauma stress appear as distinct disorders in the DSM–5 or the European equivalent ICD–11; however, both appear increasingly in professional, management, coaching and supervision literature (Substance Abuse and Mental Health Services Administration, SAMHSA, 2014a; Szymanska, 2009). The American Bar Association (ABA), for example, refers only to secondary trauma stress and not to vicarious trauma (ABA, 2017). To avoid confusing the constructs, which have different meanings in different countries, this review uses 'indirect trauma' to include the range of symptoms associated with trauma including vicarious trauma and secondary trauma stress.

An earlier review of the literature (Lerias & Byrne, 2003) identified several professions in their view at risk of indirect trauma without mentioning the legal profession. However, the reviewers found several predictor variables that would affect lawyers as much as other professionals: previous trauma history, psychological well-being, social support, age, gender, education and socio-economic status, and coping styles. Currently, most human services accept that professionals exposed to trauma in their work may in some cases experience PTSD symptoms, consistent with empirical research involving counsellors (Furlonger & Taylor, 2013), social workers (Pack, 2014), medical clinicians (Coughlin, 2017), mental health therapists (Robinson-Keilig, 2014), judges (Chamberlain & Miller, 2009), police (Turgoose, Glover, Barker, & Maddox, 2017) and lawyers (Levin & Greisberg, 2003; Maguire & Byrne, 2017; Silver, Portnoy, & Peters, 2004; Trabsky & Baron, 2016). While research is continuing on indirect trauma, especially in America, several agencies have designed 'trauma-informed toolkits' to help professionals in their work (Klinic, 2013; MHCC, 2018). In 2015 a meta-analysis concluded a 'small but significant' effect on therapists from working with traumatised clients (Hensel, Ruiz, Finney, & Dewa, 2015). Recently in Canada, without specifying vicarious or secondary trauma, the national government introduced a programme of 'trauma and violence informed approaches' into all aspects of policy and practice in the human services in order to 'provide positive supports for all people' (Government of Canada, 2018). Further, litigation is building, including a court in Australia that recently found *The Age* newspaper liable for failing to provide a journalist with a safe workplace, awarding $180,000 damages for PTSD acquired at work (ABC, 2019).

A related construct, 'subthreshold PTSD' refers to the experience of those who don't fit the DSM–5 definitional categories of PTSD, yet still suffer symptoms that can be disabling (Bergman, Kline, Feeny, & Zoellner, 2015). There is no completed research with lawyers on subthreshold PTSD; however, anecdotal evidence suggests it is at least not an uncommon experience (Weston, 2019). Research with other professions indicates it is clinically significant and can produce enduring psychological and behavioural problems, despite lack of reporting and inconsistent terminology (Brancu et al., 2016).

Lawyer well-being and effectiveness

Significant research on the legal profession in the United States (Krieger & Sheldon, 2015; Reed & Bornstein, 2013; Seligman, Verkuil, & Kang, 2005) and Australia (Beaton, 2007; Chan, Poynton, & Bruce, 2014; Kelk, Luscombe, Medlow, & Hickie, 2009) has confirmed that lawyers suffer disproportionately from mental health vulnerabilities in ways that reduce their effectiveness. In the UK a 2019 survey of 1800 lawyers found that 48% reported a mental health problem in the past month, up from 38% in 2018 and 26% in 2017 (JLD, 2018, 2019). Common experiences in lawyers include high stress and anxiety, depression, substance abuse and suicide ideation, despite the robust profile lawyers often assert. Ironically, living up to that profile and appearing to be resilient in the face of difficult

situations may aggravate existing mental health vulnerabilities among some lawyers who, as a professional group, already show high rates of pessimism (Armbruster, Pieper, Klotsche, & Hoyer, 2015), scepticism (Hu, 2015) and perfectionism (Trabsky & Baron, 2016), tend to be risk-averse and have low levels of trust (Levin & MacEwen, 2014). Other causes likely to contribute to lawyers' mental health concerns include work conditions leading to compassion fatigue (Hourigan, 2015; Norton, Johnson, & Woods, 2016) and burnout (Bergin & Jimmieson, 2014; Bourg Carter, 2006).

Compassion fatigue refers to the build-up of emotional and physical exhaustion that affects many professionals and caregivers (Figley, 2002). It can result from 'the chronic use of empathy' when responding to clients or patients who are suffering in some way or have been injured (Newell & Macneil, 2010). Burnout is likely a more common experience in lawyers and has been associated with a loss of idealism for the profession and direct and indirect health consequences (Allman, 2019; Bianchi, Schonfeld, & Laurent, 2015; Newell & Macneil, 2010). Further, burnout may be increasing among contemporary younger lawyers as they compete to prove their value to employers since law firms are adopting more IT functions and more law graduates enter an already crowded market (Allman, 2019). A recent study of helping professionals in agencies across the United States found burnout to be a significant risk factor as it accounted for almost half of variance in participants diagnosed with indirect trauma (Cummings, Singer, Hisaka, & Benuto, 2018). Related to burnout is the experience of bullying, which has been identified in the legal profession by several studies that found PTSD symptoms related to bullying among lawyers (Le Mire, 2015; Omari & Paull, 2013; Yamada, 2018). Bullying tends to increase lawyers' vulnerabilities, and while both compassion fatigue and burnout reduce lawyers' effectiveness, it appears the broader legal profession has not yet accepted evidence confirming that exposure to bullying or to clients' trauma can contribute to a lawyer developing these conditions.

Broader research on lawyer well-being has identified psychological risks for lawyers (Collier, 2016; Foley et al., 2016; Jaffee et al., 2017; Michalak, 2015) and diverse protective strategies, including mindfulness (Huang, 2017), increased focus on ethics (Baron, 2015), building resilience (Preston, Stewart & Moulding, 2014), transforming the justice system (Silver, 2017), therapeutic jurisprudence (Campbell, 2019), integrative law (Wright, 2016) and restorative justice (Foley, 2016). Most of the proposals involve systemic change in legal education and practice and may assist in protecting lawyers from indirect trauma; however, none have yet been adopted broadly or tested where they are partially applied.

Controversies

Controversies over trauma, PTSD and vicarious or secondary trauma continue among therapists and researchers on several issues. Since 1994 the DSM has claimed that trauma can lead to acute stress disorder (ASD), which has symptoms that arise immediately or within a month after a traumatic exposure (Bryant, Friedman, Spiegel, Ursano, & Strain, 2011). If ASD symptoms continue beyond a month, which seems to happen in about 50% of cases, the appropriate diagnosis should be PTSD (Elklit & Christiansen, 2010). In some cases, symptoms of ASD may worsen in the first month, often due to ongoing stressors or additional traumatic events (Medscape, 2016). However, in 2018 the ICD–11 revised 'acute stress reaction', reducing it from a disorder to a 'transient' symptom of exposure to trauma (WHO, 2018).

The ICD has not followed the DSM–5 in recognising indirect causation of PTSD symptoms in the course of professional duties, and research on 'vicarious trauma' remains contentious in the psychological and psychiatric

literature (Frances, 2013; Pai, Suris, & North, 2017). The ICD–11 has restricted the definition of PTSD further by reducing the number of categories compared with the earlier ICD–10 (Barbano et al., 2019). As stated above, neither the DSM–5 nor the ICD–11 acknowledges 'vicarious trauma' as a distinct condition; however, the British Medical Association (BMA) recognises vicarious trauma at some level, defining it as 'a process of change resulting from empathetic engagement with trauma survivors' (BMA, 2018).

According to DSM-5, the symptoms of PTSD are diverse and can include intrusive thoughts, nightmares, flashbacks, negative affect, irritability, hypervigilance and aggression, emotional stress or physical reactivity following exposure to traumatic reminders (APA, 2013; US Department of Veteran Affairs, USDVA, 2018). The ICD–11 uses a different definition, saying PTSD can result from either a 'single incident' or ongoing 'complex' trauma, which is a term used elsewhere for cumulative or underlying exposures that are usually interpersonal events such as systemic abuse in a relationship or child abuse from which the person cannot escape (Knefel, Garvert, Cloitre, & Lueger-Schuster, 2015; Knefel & Lueger-Schuster, 2013; Van der Kolk, 2003). The construct of complex trauma is not mentioned in the DSM although it is consistent with attachment theory, which is broadly accepted (Rosenfield et al., 2018; West, 2015).

Emerging conditions, medical conventions and new constructs create a risk of 'false positives' in diagnoses, which some say happened with PTSD when it was first accepted as a disorder by the DSM–III (Sadler, 2005, p. 169). A related controversy was the 'debriefing' practice as an immediate treatment for people suffering exposure to trauma. Research shows mixed results and little support for debriefing after traumatic experience, with either adults or children (Pfefferbaum, Jacobs, Nitiéma, & Everly, 2015). Current models of psychological first aid specifically caution against 'critical incident stress debriefing' and suggest it is only helpful if the person wants to discuss what happened, and only with care to avoid pushing them to disclose more than they want (APS, 2013; Bisson, Roberts, Andrew, Cooper, & Lewis, 2013).

Both the ICD–11 and the DSM–5 accept that many PTSD symptoms are shared with other conditions, such as anxiety and depression, which could be comorbid with PTSD (Westen, Novotny, & Thompson-Brenner, 2004). However, contrary to the ICD, which is moving to restrict definitions and numbers of disorders, the DSM has extended the categories while cautioning against 'absolute boundaries' between related conditions, suggesting that 'single-disorder presentations' are the exception rather than the rule (Seeley, 2008, p. 132; Wakefield, 2016). Consequently, the American discourse, more aligned with the DSM, has been open to identifying and developing concepts related to secondary trauma in the human services, while the European perspective, more aligned with the ICD, has sought to constrain categories and resist 'new' conditions.

Indirect trauma in legal practice

Most empirical studies on indirect trauma involve the experiences of diverse professions in human services although there is a growing discourse on the legal profession. Some earlier studies avoided trauma terminology, such as a Canadian project in 1995, which found that so many prosecutors suffered from the effects of what researchers labelled 'role overload' it affected the administration of justice (Gomme & Hall, 1995). However, in 2003 Jaffe and colleagues found that a majority of judges had been exposed to trauma, with a possible cumulative effect from more experience on the bench (Jaffe, Crooks, Dunford-Jackson, & Town, 2003). Also in 2003 Levin and Greisberg cited earlier American studies on lawyers' well-being and published their own results showing that lawyers suffered

'significantly higher rates of secondary trauma stress and burnout' compared with mental health providers and social service workers. In the same year Silver and colleagues published a qualitative discussion drawing on the research to date in the context of their personal experiences in legal practice with traumatised clients (Silver et al., 2004). In a small study published in 2008, Vrklevski and Franklin measured 100 lawyers using the newly developed *Vicarious Trauma Scale* and confirmed that multiple trauma exposure in lawyers was associated with higher scores of symptomatic distress (Vrklevski & Franklin, 2008). Levin and colleagues revisited the problem in 2011 and found significantly higher rates of PTSD symptoms in American attorneys than in their administrative staff (Levin et al., 2011). In a follow-up study, Levin's team found that lawyers continually exposed to indirect trauma tended to withdraw, reducing their effectiveness and their hours of work over time (Levin, Besser, Albert, Smith, & Neria, 2012). In 2015 Katz and Haldar drew on their clinical legal experience to argue for a model of trauma-informed lawyering in family law practice (Katz & Haldar, 2015). In a subsequent study, Katz and Haldar (2016) advocated for lawyers to provide more effective representation of their clients by borrowing trauma-informed techniques developed 'in the therapeutic context' (p. 363).

In Canada, a study surveying 478 practising attorneys found significant increases in PTSD symptoms associated with increased work-related trauma (Leclerc, Wemmers, & Brunet, 2019). Further, the Canadian Bar Association recently presented an indirect trauma session at its annual conference (Mathieu, 2018, 2019), and the American Bar Association encouraged the adoption of trauma-informed legal practice, updating its tips for lawyers who may be at risk of indirect trauma:

> Trauma-informed legal practice can strengthen legal advocacy, improve attorney-client relationships, and ensure appropriate screening, in-depth assessment, and evidence-based treatment. In addition, awareness of secondary traumatic stress can improve prevention, identification, and self-care among legal professionals. (ABA & NCTSN, 2017)

In Australia in 2016, Trabsky and Baron examined the experiences of lawyers working in the coronial jurisdiction and found they were 'likely to suffer distress by virtue of being members of the legal profession' and thus were expected to 'steel themselves' against distress they will experience 'as a product of what has been identified as "secondary traumatization" in certain professions' (Trabsky & Baron, 2016, p. 594). Based on their results they critiqued existing guidelines and handbooks that asserted that lawyers needed only to show 'resilience, impartiality and dissociation' in order to cope with the grief and trauma of coronial work (p. 584). Their recommendations aligned with those for police made earlier by Perez and colleagues (Perez, Jones, Englert, & Sachau, 2010), that lawyers working with trauma should be supported with additional and specific training to develop coping skills and to maintain supportive connections.

The Australian Blue Knot Foundation produced a background paper in 2016, which reviewed the research and growing awareness of trauma effects on lawyers and argued for the introduction of trauma-informed legal systems: 'The provision of law and delivery of justice comprise critical terrain to which trauma informed principles should be applied' (Kezelman & Stavropoulos, 2016, p. 20). The following year, a small study by Maguire and Byrne confirmed earlier results by Levin and Greisberg (2003) finding that lawyers showed more symptoms of indirect trauma than mental health professionals (Maguire & Byrne, 2017). Participating lawyers also showed more symptoms of depression, anxiety and stress, and the researchers called for future studies to clarify causation – that is, whether indirect trauma

influences those experiences, or if the psychopathology influences indirect trauma.

Consistent with emerging research, Australian professional journals are publishing articles to help lawyers cope with indirect trauma in their work (Nomchong, 2017). A Queensland judge (Smith, 2018) recently urged lawyers to become aware of the risk of indirect trauma and inter alia to consider adopting the *Minds Count Workplace Well-Being Guidelines for the Legal Profession* in their organisation (Minds Count Foundation, MCF, 2019). In the UK, discussion of indirect trauma by the legal profession appears relatively discreet. In 2019, as discussed above, the UK Law Society's survey reported on 'stress' and 'mental ill-health' in lawyers without enquiring on indirect trauma or associated experiences (JLD, 2019). On the other hand, the UK Bar Council (UKBC) has published an information pack on 'vicarious trauma', designed for 'Safeguarding your working practice' (UKBC, 2019).

Most empirical research so far reports on the experience of lawyers in private practice, prosecutors and judges, and there appears to be nothing published to date on the experience of indirect trauma by lawyers in legal aid or community legal services. Their experience may be different for several reasons: while in many cases they don't bill clients and so are not oppressed by billing targets, their employer organisation may be under-funded for the caseload, causing high work-loads including trauma-affected cases and increased risk of work-stress for some lawyers. In addition, the nature of community legal services often involves working with impoverished communities, refugees and clients affected by long-term unemployment, crime rates, disability, drug and alcohol abuse, and high rates of domestic violence and child abuse. On the other hand, it is possible that community lawyering attracts lawyers who have a more compassionate disposition than does private practice, and some research suggests that compassion is a protective quality in trauma exposure (Gilbert, 2005).

Overall, despite significant research gaps, the legal profession in several countries is beginning to recognise the risks for lawyers exposed to indirect trauma and attempting to keep practitioners informed. Given the significant and increasing research on lawyer well-being there is a growing need for qualitative studies to help understand the role that indirect trauma has on lawyer vulnerabilities and quantitative projects to investigate the extent of exposure and its effects. Further, longitudinal studies are needed to help distinguish and explain the effects of trauma in different types of lawyering against variable exposures, workplaces and personalities, and the effects of trauma-informed legal education, training and system changes.

Stigma

In a review of studies by Molnar and colleagues designed to identify effective workplace responses to indirect trauma in a range of professions, the reviewers found a common reluctance to disclose based on what seemed to be a stigma (Molnar et al., 2017, p. 130). Their analysis found stigma as a significant impediment to professionals who unduly individualise their experience, not wanting to reveal to colleagues, employers or clients that they are suffering from burnout or other secondary trauma effects. Stigma against mental health issues may contribute to the silencing of indirect trauma as a risk in legal practice. For individual lawyers, conscious of their reputation and professional identity, it can reflect ignorance of the potential harm of indirect trauma and perpetuate a sense of shame about mental health concerns generally in the legal profession (Ersoy, Born, Derous, & van der Molen, 2011; Pals, 2006; Royle, Keenan, & Farrell, 2009; Stuart, 2008). Due to the stigma in a legal workplace milieu many lawyers may think it is counter-intuitive to disclose symptoms and reveal what they think will be seen as a professional weakness. Suppressing symptoms

not only avoids opportunities for organisational responses but risks aggravating the effects lawyers may suffer.

Several studies describe how stigma generates a 'psychological dishonesty', which may combine with the stress of complex cases and high workloads, and eventually worsen lawyers' mental well-being, efficacy and their physical health (Slepian, Chun, & Mason, 2017; Williamson, Stevelink, & Greenberg, 2018). Other studies show how workplace systems can aggravate professional's experience of stress by imposing unreasonably high workloads, which is common in the legal profession (Baron, 2015; C. James, 2017; LSG, 1998; Michalak, 2015). Relevant to the long hours often worked by lawyers, a study of 259 therapists found that the primary predictor of trauma symptoms was not the intensity of trauma exposure but hours-per-week spent working with traumatised clients (Bober & Regehr, 2006).

Another review of studies on organisational responses to burnout and indirect trauma found that simply acknowledging to employees that their work is stressful can help overcome stigma against disclosure and may enable lawyers to feel more supported at work and to seek personal solutions and self-care (Bell, Kulkarni, & Dalton, 2003). Law firm managers, adhering to their business model, might assume simplistically that lawyers should not be affected by their client's trauma because they do not have a 'therapeutic relationship' with their clients. Conventionally, many law firms motivate the productivity of employed lawyers by obliging them to meet billing targets with supervision focused on time-management strategies (Baron, 2014; C. James, 2017). Overcoming the stigma against mental health issues and introducing trauma-informed policy in legal practice may involve additional costs that law firms have so far avoided. Both organisations and supervisors have a duty of care for employees and may need to recognise how they can help protect lawyers from the effects of indirect trauma. Trauma-informed policies would benefit individual lawyers not only by helping to negate stigma generally, but also through enhancing their well-being and satisfaction and improving the effectiveness of their work.

Trauma-informed practice could be supported at both supervisory and management level in law firms and workplaces so that employed lawyers know they have organisational support (Bassuk, Unick, Paquette, & Richard, 2017; Conover, Sharp, & Salerno, 2015). Instituting trauma-informed policies and practices will help to normalise indirect trauma effects in legal practice, moderate the stigma that hinders discussion and disclosure, and help to support lawyers who may endure symptoms of trauma exposure that cause personal suffering and diminished efficacy.

Managers could discuss lawyers' trauma exposure in meetings as a standard agenda item, acknowledging and accepting the risk as genuine, distributing information on how lawyers may experience the effects of client-related trauma, sharing strategies for protection and reassuring lawyers that systems are in place for responding to their issues and minimising the risk. If lawyers understand that their workplace, including their supervisor and colleagues, accept that indirect trauma is a normal response to exposure to clients' trauma they will be more inclined to disclose symptoms and take appropriate action including self-care and protective steps instead of denying it by presenting a veneer of resilience. Studies of other professions dealing with similar traumatic exposures indicate that workplaces that are unsupportive are likely to increase the risk of compassion fatigue and lower their ability to cope with clients' trauma (Dombo & Blome, 2016; Turgoose et al., 2017). Effective mitigation of lawyers' indirect trauma risk may require both the employer organisation and individual lawyers to become trauma-informed, and it may require structural and systemic workplace change.

Organisational support

The legal profession may be the last of the human services to acknowledge that its members face risks of indirect trauma. Until recently, there have been no conventions or protocols in legal practice about self-care as there are in the medical, allied health and counselling fields. Competition in the legal profession and the adversarial nature of legal practice may have fuelled the denial of the risk of indirect trauma to lawyers and hindered recognition of their vulnerability. Further, contemporary neoliberal models of workplace systems and technological innovations have led to reduced staffing in some areas, and as competition for employment increases lawyers may fear showing weakness in any form, reflecting the stigma discussed above (Stuart, 2008; Thornton, 2016).

Adopting trauma-informed policies involving gradual transitions in workplace practices may improve both the safety and efficacy of employed lawyers exposed to trauma (Kezelman & Stavropoulos, 2016). Graduating examples proposed by researchers in health systems could be adapted for legal workplaces and begin with a 'trauma-aware' workplace, which is at an early stage where staff have received effective training so they understand trauma, its effects and how people often adapt to it. 'Trauma-sensitive' describes a firm that puts into operation some concepts of a trauma-informed practice. 'Trauma responsive' is the next stage where a firm encourages changes in lawyer behaviour to strengthen their resilience and protective factors (Jennings, 2004). A firm that is 'trauma-informed' would have ensured that all personnel, including professional, management and support staff, are aware of trauma and its adaptations, and that all practices in the system are responsive to trauma, including its direct and indirect effects (Nomchong, 2017; Quadara, 2015).

Legal practice managers might fear opening a 'Pandora's Box' of uncontrollable issues by raising indirect trauma with lawyers and introducing new policies. However, some research confirms that lawyers who feel a sense of 'psychological safety' may work more effectively and conscientiously (Edmondson, 2019). Indirect trauma in legal practice is likely to be common; however, it is not inevitable, and the risk can be reduced by ensuring there are good protocols and giving lawyers appropriate information, training, preparation, and support (Steckler & Light, 2017). The risk may be affected by a lawyer's background, culture, personal history and personality (Lerias & Byrne 2003). It can build incrementally from repeated exposures, and it can be aggravated by stress from other workplace conditions. Indirect trauma experiences can be alleviated by both self-care and workplace and supervision changes, and if not responsive can be treated effectively by a range of therapies (Shapiro, 2010). Trauma-informed policies should aim to inform and empower individuals, who are then in the best position to decide what they need. Ideally, managers will be familiar with work conditions of employed lawyers so they can identify risks that may aggravate or sensitise a lawyer to indirect trauma. Sadly, these conditions include aspects often inherent in legal workplace culture such as high workload and billing targets, a competitive environment, adversarial practices and the stress of making an error that could cause a client's loss (Verney, 2018).

Trauma-informed training as part of professional development may help lawyers not only to protect themselves, but to improve their client skills and effectiveness through better understanding of the responses and decisions of clients who may have suffered childhood abuse or other complex trauma (Knight, 2009). Several studies provide guidance for professionals communicating with traumatised clients safely and helping them obtain therapeutic care if appropriate (K. James, 1999; Knight, 2013). If lawyers are supported by appropriate workplace protocols and practise good self-care strategies, they can protect themselves and improve their competency,

effectiveness and resilience as they work directly with traumatised clients.

The legal profession includes high diversity in systems so until conventions are established and tested, individual workplaces can develop their own trauma-informed policies that reflects the experience of their staff. Fortunately, researchers have proposed several models based on the experience of other professions and the recommendations of empirical research. Drawing on a meta-analysis, Knight found an emerging consensus among researchers around five principles for trauma-informed practice: safety, trust, collaboration, choice and empowerment (Goodman et al., 2016; Knight & Borders, 2018). Other researchers have included 'culture' as an important principle, since it incorporates gender and historical issues relevant to the organisation and the lawyer (SAMHSA, 2014b). Culture may be particularly important to address in law firms to help counter the stigma against mental health issues and the historical absence of an ethic-of-care for staff in many legal workplaces, compared with other human services.

The resulting six principles offer a viable foundation for designing trauma-informed policies for a legal workplace; however, the policies must be relevant to the work activities and understood by all staff as a process and a developmental resource, not a new set of rules or a condition of employment (Cook, Simiola, Ellis, & Thompson, 2017). Trauma-informed policy must be flexible, allowing for evolution as it adapts to other changes, including new systems, new staff, new clients, and new laws and systems, as well as improved understandings from new research on how to work safely with traumatised clients. It is important to discuss the policy at routine meetings to reduce stigma, to allow staff to share their experiences and to enable modifications in practice as the policy develops.

One model that could be adapted for legal practice is 'trauma-informed care' (TIC). It applies the above principles as an 'organisational change process that is structured around the presumption that everyone in the agency (from clients through to management) may have been directly or indirectly exposed to trauma within their lifetime' (Jankowski, Schifferdecker, Butcher, Foster-Johnson, & Barnett, 2019). Although not applied in legal practice yet, where TIC has been implemented in related areas both staff and clients report being more empowered and satisfied with services, including reduced evidence of indirect trauma (Bryson et al., 2017; Sullivan, Goodman, Virden, Strom, & Ramirez, 2017). Assessments of the TIC training so far show that it has significant effectiveness in a range of measures (Kenny, Vazquez, Long, & Thompson, 2017). Other studies show that where trauma-informed policies are not applied, staff experience higher rates of indirect trauma symptoms and reduced competency in their service to clients (Frey, Beesley, Abbott, & Kendrick, 2017).

The 'Vicarious Trauma Toolkit' (VTT) is an effective model produced by the US Department of Justice (DOJ), which includes a compendium of articles and other resources to assist organisations build their own programme to protect staff (DOJ, 2018b). The toolkit can be searched by discipline and includes resources for 'Law Enforcement' and 'Victim Services'. One section in the VTT is the 'Vicarious Trauma – Organizational Readiness Guide', which may help law firms wanting to assess their current needs (DOJ, 2018a). The guide helps to identify gaps in knowledge and assists organisations to develop a more trauma-informed policy with an improved capacity to support professional staff.

A third model is Sandra Bloom's 'Sanctuary Toolkit', based on experiences of organisational change in designing strategies to respond effectively to trauma (Bloom, 2017; Bloom & Sreedhar, 2008). The Sanctuary model includes seven 'cultures': non-violence, emotional intelligence, social learning, shared governance, open

communication and social responsibility. As studies on indirect trauma evolve, more programmes are likely to emerge and improve the options for legal organisations to develop effective policies to improve protection from trauma effects for staff and clients. Research on the effectiveness of these models is continuing, and the results so far confirm earlier studies showing that even policies restricted to motivating self-care can help professionals cope with traumatic exposure and improve well-being and efficacy (Foreman, 2018; Pearlman & Mac Ian, 1995; Williams, Helm, & Clemens, 2012).

Trauma-informed supervision

Legal supervisors occupy a key position in trauma-informed practice as their support is essential for individual lawyers to work effectively and safely with traumatised clients. Legal supervisors can benefit from the experiences of supervisors in other professions who have learnt to help individuals adapt to indirect trauma not solely as an individual concern, but by understanding it in context of their organisation, their work and their role in the broader socio-legal system (Becker-Blease, 2017). Failure to validate the lawyer's response to trauma in supervision can reinforce stigma and aggravate self-blaming and feelings of incompetence, which can increase symptoms and risks further injury from continued exposure.

An effective model of trauma-informed supervision provides lawyers with professional development aligned with a competent and compassionate legal service for clients in need. Experienced supervisors will understand that the topics lawyers most need to discuss in supervision are often those they avoid bringing up, especially while the stigma persists, such as mental health issues associated with indirect trauma (Best et al., 2014; Mehr, Ladany, & Caskie, 2015). Weak supervision that lacks trauma awareness and avoids difficult questions risks aggravating rumination and other symptoms of compassion fatigue or indirect trauma, potentially leading to serious problems or loss of the lawyer from the workplace and the profession. On the other hand, attempting therapeutic approaches, obliging a debrief or otherwise engaging 'too deeply' in issues could pathologise the lawyer's response unnecessarily, which could be a boundary violation and undermine the lawyer's self-efficacy (Bernard & Goodyear, 2014; Hernandez, Engstrom, & Gangsei, 2010).

Supervisors who are responsive to trauma theory will understand the benefits of being proactive with indirect trauma to help normalise reactions and enable lawyers to make informed decisions in their work and self-care. However, they will not force the lawyer to disclose or discuss an issue unless and until they are ready. Where possible in a supportive environment and with consent of the lawyer it might be helpful to discuss an issue with other staff in meetings to help normalise the experience and minimise stigma. Supervisors may draw from the firm's policies or a tested model – for example, the six principles of trauma-informed practice stated above. One study of experienced supervisors in a range of professions emphasised the importance of two principles: safety and empowerment (Berger & Quiros, 2014). Safety in supervision includes the lawyer *feeling* safe, which may include enhancing structural, operational or administrative procedures in the firm, as well as establishing a trusting connection with the lawyer. Empowerment includes allowing the lawyer to participate actively in their own supervision, feeling enabled to share their own thoughts and emotions, for example about a client's traumatic experience. Supervision requires not only listening carefully to the lawyer's priorities but encouraging them to set parts of the agenda for supervision meetings and supporting their decisions where possible. An effective strategy is to help the lawyer understand not just how to manage difficult cases and their reactions to clients' trauma, but also notice how they have developed and grown as a result of their practice so far. Using

a 'supervisory alliance' the supervisor can foster professional growth by asking the lawyer to come to sessions prepared to talk about their successes with clients and other indicators of growth (Berger & Quiros, 2016; Killian, Hernandez-Wolfe, Engstrom, & Gangsei, 2017). As with professional coaching the supervisor needs to clarify workload expectation limits, not just billing or work-load targets, and ensure that lawyers are conscious of their personal habits and how their well-being and self-care are inseparably related to their professional performance.

A trauma-informed supervision process requires the supervisor to have good knowledge of the lawyers involved, and their character and background, as well as the nature of the work they do. Since responses to trauma are individual and depend on many personal and situational factors, supervisors need to anticipate uncertainty and diverse responses to clients' trauma: no two lawyers will be the same (Adeola & Picou, 2014; Elliott & Urquiza, 2006). Knowing the lawyer's background might help a supervisor understand their response to certain situations. However, having a personal history of trauma, such as child abuse, will not necessarily increase risk of subsequent indirect trauma symptoms (McCall-Hosenfeld, Mukherjee, & Lehman, 2014; Nelson-Gardell & Harris, 2003). Lawyers experiencing burnout, bullying and compassion fatigue are more likely than others to develop symptoms from indirect trauma, while the quality of connectedness and social support they experience in the workplace and their community are protective factors, can improve their effectiveness and should be promoted where possible (Carlson et al., 2016; Sattler, Boyd, & Kirsch, 2014; Sippel, Pietrzak, Charney, Mayes, & Southwick, 2015). Inexperience as a lawyer or being new to the job may increase vulnerability; however, having a lot of experience working with traumatised clients is not necessarily protective, since indirect trauma can be cumulative and without appropriate supervision, adequate breaks and self-care lawyers may develop emotional exhaustion, leading to compassion fatigue and indirect trauma symptoms (Molnar et al., 2017).

Key strategies in trauma-informed supervision are aligned with reducing stigma in the workplace. They validate the lawyer's experience with compassionate understanding, acceptance and affirmation, and normalise reactions to exposure to trauma rather than to pathologise them as abnormal with diagnoses, sensitivities or medical responses. Symptoms of indirect trauma stress are 'a normal and universal response to abnormal (violence induced) or unusual events (disasters)' (Figley, 2015, p. 178). However, with trauma-informed policies that encourage appropriate self-care supervisors can help lawyers manage the symptoms and minimise the effects (Berger & Quiros, 2016; Yassen, 2013).

Self-care

> Attentiveness to self-care is thus as much about OHS, risk management and liability as about the more standard reading of it as purely pertaining to 'R and R'. (Kezelman & Stavropoulos, 2016, p. 17)

Individual lawyers have a duty of self-care, and taking effective action to protect themselves from indirect trauma is an important part of professional development and maintaining professional competence (Hensel et al., 2015; Layne, Stuber, Abramovitz, Ross, & Strand, 2011). A first step is for lawyers to get informed about trauma theory, which will help them understand the importance of self-awareness and improve their motivation toward building resilience and adaptive habits. Individual resilience is often restricted to the capacity to deal with adversity, but it is best understood as developmental and adaptive rather than a fixed strength or personality trait (Bradey, 2014; Foster, Cuzzillo, & Furness, 2018).

Trauma-informed lawyers understand that exposure to trauma has an impact, that the

effect is normal and it can be managed. Similarly, lawyers who adopt a growth mindset, as opposed to a 'fixed' mindset, are more likely to learn from their experiences and find the 'best fit' for them in terms of an adaptive attitude and safe responses to their clients' trauma (Burnette, O'Boyle, VanEpps, Pollack, & Finkel, 2013; Moser, Schroder, Heeter, Moran, & Lee, 2011). Martin Seligman has argued that sustaining a growth mindset in the long run enables a person not only to demonstrate resilience to trauma but to actually grow from the traumatic experience (Seligman, 2011; Yeager, Lee, & Jamieson, 2016).

Often a legal workplace culture and the stigma it perpetuates cause some lawyers to retain fixed beliefs that they need to present a robust persona and are unwilling to acknowledge their vulnerabilities in the competitive legal profession. Some lawyers are susceptible to false confidence, which lacks self-awareness and may increase their vulnerability to indirect trauma. Other lawyers may simply be resistant to or afraid of change. Both forms of inertia can be moderated through trauma-informed supervision, improving their awareness of trauma theory and focusing on the 'culture' principle discussed above as part of the transition towards a trauma-informed organisation. Once lawyers drop their façade of invulnerability there are many resources they can access to strengthen their professional resilience and the efficacy of their practice.

The American Psychological Association provides a system for introducing 10 practices that could help professionals in any field build resilience to work effectively with traumatised clients (APA, 2019b). Similarly, the British Medical Authority lists 14 practices of self-care designed to reduce the risk of indirect trauma for health professionals (BMA, 2018). While some of the measures are broad principles, which may seem facile to a cynical lawyer (e.g. 'Take care of yourself' and 'Look after your physical and mental well-being'), the point is that lawyers generally *do not* take care of themselves, which is why some are vulnerable to indirect trauma. Many studies on lawyer well-being (discussed above) confirm their tendency to over-work and adopt bad habits to cope with work stress, including alcohol and drug abuse as well as poor diet, sleep and fitness regimes, and many lose contact with supportive friends and community due to the pressures of work (Jaffee et al., 2017; Krill, Johnson, & Albert, 2016; Seligman et al., 2005). Supervisors who are informed of the research on indirect trauma are likely to encourage and motivate lawyers towards self-care and to normalise discussion about basic self-care practices especially around personal habits and maintaining supportive connections.

A review of research on the efficacy of self-care practices for professionals in response to secondary trauma supported a four-step process involving enhanced self-awareness, committing to addressing the stress, making a personal plan of action and following through with action (Sansbury, Graves, & Scott, 2015). The core of this model is the adage *Know Thyself,* an ancient Delphic maxim often endorsed as the first step in best-practice self-care strategies. In trauma-informed practice, enhancing self-awareness enables us to recognise our thoughts and feelings about a client's trauma as the start of normalising and validating those reactions internally. We discover what works for us, since a strategy that helps one lawyer may not work for another (Moore, Perry, Bledsoe, & Robinson, 2011; Rothschild & Rand, 2006).

Mindfulness is a core tenet of 'knowing thyself', and many studies demonstrate how self-awareness and self-compassion are enhanced through various mindfulness interventions that would improve lawyers' resilience to trauma, as well as their performance and overall well-being. Among these are Mindfulness-Based Stress Reduction (Kabat-Zinn, 2003), Mindfulness-Based Cognitive Therapy (Williams, Russell, & Russell, 2008) and Compassionate Mind Training (Gilbert, 2009). A basic mindfulness practice is the

regular habit of secular meditation, which might involve simply sitting quietly for a dedicated 15 minutes each day (Larson, Steffen, & Primosch, 2013). There are many other practices that enhance mindfulness to improve resilience to trauma, including yoga, tai chi, and walking (Grodin, Piwowarczyk, Fulker, Bazazi, & Saper, 2008; Harle, 2017; Teut et al., 2013).

The self-awareness enabled through mindfulness practice can help to integrate and resolve ideas, memories and images (cognitive) and somatic (body-related) and affective (emotional) aspects of anxiety-related trauma. It also helps improve self-compassion (Iacono, 2017; Neff, 2003) and other adaptive outcomes such as 'post-traumatic growth', enabling a forward-thinking optimism and a greater appreciation of life and meaning at work (Blackie et al., 2017; Tedeschi & Calhoun, 2004). Post-traumatic growth is an 'antifragile' effect, beyond mere resilience, evidenced by the fact that some people become stronger after traumatic exposure (Taleb, 2014). As Taleb explains: 'Antifragility is beyond resilience or robustness. The resilient resists shocks and stays the same; the antifragile gets better' (p. 3). In 2013, a metasynthesis of qualitative studies found that post-traumatic growth can result from trauma exposure, providing subjects follow personal and organisational coping strategies (Cohen & Collens, 2013).

Improved self-awareness may include discovering one's psychological or character strengths, which can be used more effectively than compensating for domains where one is less gifted (Schutte & Malouff, 2019). One effective strengths model is based on the applied positive psychology theories of Martin Seligman, Christopher Peterson and colleagues, which have been tested in several domains (Butler & Kern, 2016), including coaching, education, and professional development (Dixon, Lee, & Ghaye, 2016; Kern, Waters, Adler, & White, 2015; Linley & Joseph, 2004). Another method is based on the 'Broaden and Build' theory of using gratitude and positivity in an intentional practice, which has a growing body of research confirming the benefits for enhancing and creating psychological resources (Fredrickson, 2013; Van Cappellen, Rice, Catalino, & Fredrickson, 2018). A simpler practice verified with different professions is positive self-talk, focusing on affirmations and motivational comments (Baker, 2018; Hatzigeorgiadis, Zourbanos, Galanis, & Theodorakis, 2011). Studies suggest that the self-talk practice can enhance resilience, reduce rumination and improve mood and is best introduced through supervision to overcome resistance from stigma. It involves addressing oneself as if advising a good friend: 'Let it go until tomorrow'; 'That's your work talking, that's not accurate' (Knight, 2013; Moser et al., 2011). Therapists advocate supportive self-talk using 'non-first-person' language to enable psychic distancing from the traumatic memories and feelings that can arise at irregular times (Foster et al., 2018; Kross et al., 2014).

As a lawyer's self-awareness grows with trauma-informed supervision and self-care practices, it is likely they will also become more compassionate towards themselves and be less judgmental about their goals and performance, including their successes and failures. Self-compassion helps lawyers to understand how their own well-being is fundamental to providing best practice for their clients and important for coping with indirect trauma (Neff, 2011; Scoglio et al., 2015). Self-compassion arising with improved self-awareness helps lawyers to manage a client's trauma in a balanced awareness of self and other, rather than over-identifying with their client, their feelings or their situation.

Conclusion

The relative paucity of studies so far with lawyers directly exposed to indirect trauma is attenuated by studies with related professions such

as judges, child welfare officers, police and prosecutors. Academic debates over diagnoses are not relevant for lawyers working with traumatised clients since there is enough evidence to understand the causes of symptoms and to adopt protective practices. Recognising the specific risks of lawyers' exposure to clients' trauma is not 'buying-in' to one side of a controversy but accepting responsibility to act. Lawyers need training, supportive supervision updated systems and conditions that enable them to provide the best legal assistance for their clients, which includes managing their own exposure to trauma. Acknowledging the need for change is essential for the profession to take the next step and facilitate policies and practices to better protect lawyers working with trauma.

Legal systems oriented towards restorative justice including therapeutic jurisprudence, as opposed to retributive models, will be open to trauma-informed theories and practice (Campbell, 2019). Restorative justice has been articulated mostly within criminal law, which is also one of the areas most affected by trauma and its consequences (Foley, 2016). Related areas including coronial law, family law, domestic violence, child abuse and personal injury law also involve trauma and may benefit from social justice and client-focused practices that prioritise redemption and – where possible – the repair of relationships. While the individual experience of direct and indirect trauma is important to recognise, a restorative justice approach to trauma-informed legal practice would avoid the limitations described by Randall and Haskell, where:

> mainstream and traditional psychiatric and psychological approaches to the study of trauma often tend to ignore or minimize the relevant and broader social contexts and social relationships in which people's experiences are produced, shaped and lived. (Randall & Haskell, 2013, p. 501)

Law firms and legal workplaces are obliged to ensure their systems are safe. That may require employers to ensure that trauma-informed policies apply to both the organisation's workplace and systems and all individuals, who in turn are encouraged to adopt self-care practices. Employed lawyers and sole practitioners need to recognise that self-care habits will not only enhance their well-being and help protect them for work-related trauma but also improve their productivity and efficacy at work. The science on trauma-informed practice is relatively new, yet it has been adopted effectively in other professions and provides the legal profession with an opportunity to catch up, to protect its members and to assert its role as a responsible and compassionate human service.

Ethical standards

Declaration of conflicts of interest

Colin James has declared no conflicts of interest

Ethical approval

This article does not contain any studies with human participants or animals performed by any of the authors.

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